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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/816,524	03/23/2001	Patrick J. Carr	112905-006	8023

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EXAMINER

BOSS, WENDY L

ART UNIT	PAPER NUMBER
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1775

9

DATE MAILED: 07/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/816,524

Applicant(s)

CARR ET AL.

Examiner

Wendy Boss

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 April 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37 and 40-61 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 36,37 and 51-56 is/are allowed.
- 6) ☒ Claim(s) 1-35,40-50 and 57-61 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 8. 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-10, 19-21, 24, 25, 40-50 and 57-61 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,755,401 (Friedrich et al.).

Friedrich discloses an artificial turf comprising a backing; a plurality of base fibers secured to the backing; and a plurality of first marking fibers secured to the backing to visually define at least a portion of a first marking (see column 3, lines 25-35). It is also disclosed by Friedrich that the base fibers and first marking fibers have different pigmentation (see column 3, lines 32-35). Friedrich also discloses a plurality of second and third marking fibers secured to the backing (see column 2, lines 46-57). It is also disclosed in the reference that the backing includes a first backing section securing the base fibers, the first section attached to a second backing section (see Figures 1-3).

Friedrich does not specifically recite that the marking is an airport marking; however, at column 3, lines 1-5, it is disclosed that the marking is in the form of lines. Because lines are a type of marking that are found at an airport, it is the examiner's position that lines are a type of airport marking. The reference also does not specifically disclose that the turf is placed adjacent

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to a runway of an airport; however, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. Friedrich also does not necessarily disclose that the marking fibers are painted to produce the different pigment; however, patentability of an article depends on the article itself and not the method used to produce it. Friedrich also does not specifically disclose that the fibers in the artificial turf repel animals or birds; however, absent evidence to the contrary, the fibers in the Friedrich turf may be of a thickness or stiffness that repel animals or birds.

3. Claims 1-3, 5, 7-10, 19-21, 24, 25, 40-50 and 57-61 are rejected under 35 U.S.C. 102(e) as being anticipated by US 2002/0028307 (Prevost).

Prevost discloses an artificial turf comprising a backing; a plurality of base fibers secured to the backing; and a plurality of first marking fibers secured to the backing to visually define at least a portion of a first marking (see paragraph 0052; and Figures 8 and 9). It is also disclosed by Prevost that the base fibers and the first marking fibers have different pigmentation (see paragraph 0052). Prevost also discloses that the marking fibers are for providing yardage lines on a field (see paragraph 0021), which suggests that the turf also includes a plurality of second and third marking fibers secured to the backing.

Prevost does not specifically recite that the marking is an airport marking; however, at paragraph 0021, it is disclosed that the marking is in the form of lines. Because lines are a type of marking that are found at an airport, it is the examiner's position that lines are a type of airport marking. The reference also does not specifically disclose that the turf is placed adjacent to a

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runway of an airport; however, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. Prevost also does not necessarily disclose that the marking fibers are painted to produce the different pigment; however, patentability of an article depends on the article itself and not the method used to produce it. Prevost also does not specifically disclose that the fibers in the artificial turf repel animals or birds; however, absent evidence to the contrary, the fibers in the Prevost turf may be of a thickness or stiffness that repel animals or birds.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 11-18, 22, 23, 26-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,755,401 (Friedrich et al.) in view of U.S. Patent No. 4,044,179 (Haas, Jr.) and U.S. Patent No. 6,227,989 (Reid).

Friedrich discloses an artificial turf as shown above in paragraph number 2. The reference does not specifically disclose that the turf is installed at an airport or providing an airport marking or is adapted to define an end of a runway, an end of a taxiway, a hazardous parking area, or are adapted to direct or inform a pilot; however, it is well known the art to use

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such types of artificial turf marking systems for airport runways (see Reid reference). It would have been obvious to one having ordinary skill in the art that the Friedrich turf could be used for any known purpose, including airport runway markings for communicating with pilots.

Friedrich also does not disclose that the turf includes a base beneath the backing; and a soil surface beneath the base; however, attention is directed to column 3, lines 40-68 of Haas, which teaches that improved drainage for artificial turfs can be obtained by providing a base on a soil surface beneath the backing of artificial turf. Such a teaching would have motivated one having ordinary skill in the art to provide the Friedrich turf with such a substructure. The reference also does not disclose that the marking fibers have a fluorescent pigment; however, it would have been obvious to one having ordinary skill in the art that providing the fibers with a fluorescent pigment would allow the markings to be seen at night.

6. Claims 4, 6, 11-18, 22, 23 and 26-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 2002/0028307 (Prevost) in view of U.S. Patent No. 4,044,179 (Haas, Jr.) and U.S. Patent No. 6,227,989 (Reid).

Prevost discloses an artificial turf as shown above in paragraph number 3. The reference does not specifically disclose that the turf further includes a plurality of second and third marking fibers of different colors secured to the backing; however, it would have been obvious to one having ordinary skill in the art that any number of marking sections of any chosen color could be used in the Prevost turf, depending on the intended use of the turf. For example, one having ordinary skill in the art would have seen that a marking line of one color could be used to indicate the yard lines on a football field and another marking line of a different color could be used to indicate the end zone of the same field.

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The reference also does not disclose that the turf is installed at an airport or providing an airport marking or is adapted to define an end of a runway, an end of a taxiway, a hazardous parking area, or are adapted to direct or inform a pilot; however, it is well known the art to use such types of artificial turf marking systems for airport runways (see Reid reference). It would have been obvious to one having ordinary skill in the art that the Prevost turf could be used for any known purpose, including airport runway markings for communicating with pilots.

Friedrich also does not disclose that the turf includes a base beneath the backing; and a soil surface beneath the base; however, attention is directed to column 3, lines 40-68 of Haas, which teaches that improved drainage for artificial turfs can be obtained by providing a base on a soil surface beneath the backing of artificial turf. Such a teaching would have motivated one having ordinary skill in the art to provide the Prevost turf with such a substructure. The reference also does not disclose that the marking fibers have a fluorescent pigment; however, it would have been obvious to one having ordinary skill in the art that providing the fibers with a fluorescent pigment would allow the markings to be seen at night.

Response to Arguments

7. Applicant's arguments filed April 4, 2003 have been fully considered but they are not persuasive. The examiner agrees that the Friedrich and Prevost references fail to disclose that a portion of a like pavement marking appears on the runway or taxiway of the airport adjacent to the first marking fibers; however, the current language of the rejected claims do not require that the turf is installed along a runway.

Allowable Subject Matter

8. Claims 36, 37 and 51-56 are allowed.
9. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record does not disclose or suggest an airport marking system comprising a backing secured to a runway or taxiway of an airport; a plurality of base fibers secured to the backing; a plurality of marking fibers secured to the backing, wherein the marking fibers define at least a portion of an airport marking with respect to the base fibers; and an attachment mechanism that secures the backing to a runway or taxiway of an airport.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wendy Boss whose telephone number is 703-306-5922. The examiner can normally be reached on M-Th 8:30a-6:00p; 2nd F 8:30a-5:00p.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Deborah Jones can be reached on 703-308-3822.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



Wendy Boss
June 29, 2003



DEBORAH JONES
SUPERVISORY PATENT EXAMINER